IN THE HIGH COURT OF BOMBAY AT GAO.

WRIT PETITION NO. 15 OF 2003.

Shri Pratapa Gajanan Naique,
r/o H. No. 192, Takaband,
Cuncolim, Salcete-Goa. ... Petitioner.

Versus

1. Shri Nicholas Luis
   Travasso and wife
2. Smt. Fatima Travasso
3. Smt. Conceicao @
   Coicao Travasso, all
   r/o Takaband, Cuncolim,
   Salcete-Goa.
4. Cuncolim Municipal Council,
   through its Chief Officer,
   Cuncolim, Salcete-Goa. ... Respondents.

Mr. V.G.P. Dukle, Advocate for the Petitioner.

Mr. C.A. Coutinho, Advocate for the Respondents 1 to 3.

Mr. P.A. Kholkar, Advocate for the Respondent No. 4.

Coram: P.V. HARDAS, J.

Date: 13th March 2003.

ORAL ORDER.

Heard Mr. Dukle, learned counsel for the petitioner, Mr. Coutinho, learned counsel for the respondents 1 to 3 and Mr. Kholkar, learned counsel for the respondent no. 4.

2. This is a petition filed challenging the Order passed by the learned District Judge, South Goa, Margao, dated 22nd November 2002, rejecting Civil Miscellaneous Application No. 100 of 2002. The said Civil Miscellaneous Application had been filed by the present petitioner, who was the original plaintiff in Regular

Civil Suit No. 756/2000/F, pending on the file of the learned Civil Judge, Junior Division, 'F' Court, Margao, seeking to transfer the proceedings from the said Court to any other Court on the ground that the learned Judge had dismissed the application for amendment to the injunction application by an Order, dated 16th October 2002, which, according to the petitioner, has been done by tampering with the record, that is, the roznama, to show that the said Order had been, in fact, passed on 26th September 2002.

3. Undisputedly, the petitioner/plaintiff had filed an application for amendment of his plaint and also an application for amendment of the injunction application. The application for amendment of the plaint was an application which dealt with the substantive amendments. In the application for amendment of the injunction application, in paragraph 1, it is stated by the petitioner/plaintiff that the plaintiff had filed an amendment application and the facts pleaded therein be treated as incorporated in the injunction application to avoid 'needless repetition'. The amendments sought in the injunction application were for joining three defendants and consequential relief in the prayer clause. The amendment to the injunction application depended primarily and would be governed by the Order passed on the application for amendment of the

plaint filed in the Civil Suit. Since, undisputedly, the learned Judge had dismissed the application for amendment of the plaint in the Civil Suit, the Order required to be passed on the application for amendment of the injunction application was a mere formal Order.

4. In the aforesaid Order the learned District Judge has adverted to the contention of the petitioner/original plaintiff and has found that no ground existed for transferring the said proceedings pending on the file of the learned Judge to some other Court.

5. I have perused the Order of the learned District Judge and I am of the opinion that the learned District Judge has applied his mind and has come to a correct finding. The grounds urged in support of the transfer of the suit do not at all, in my opinion, justify any apprehension that the learned Judge is hostile to the petitioner and the petitioner would not get any justice. There is no infirmity in the Order warranting interference by this Court. The Writ Petition is, accordingly, dismissed.

(P.V. HARDAS)
JUDGE.

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